Exhibit D to the Declaration of David H. Kramer

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October 11, 2005

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VIA FACSIMILE AND U.S. MAIL

David H. Kramer, Esq.
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050

Re: *Google v. Affinity Engines*

Dear Counsel:

I respond to your letter of today regarding the depositions of Page and Brin in the Federal copyright action.

AEI agrees to December 8 for the deposition of Larry Page and December 15 for the deposition of Sergey Brin.

We agree to Judge Ambler presiding over those depositions as the §639 Discovery Referee for the state court case only and not otherwise binding in the federal case.

We agree that the depositions of Page and Brin will involve the topics set forth in Judge Elfving's May 27 Order: "(1) ownership of the software at issue; (2) defendant's hiring of Buyukkokten; and (3) defendant's decision to convert Buyukkokten's prototype software, which plaintiff claims it owned." However, per Judge Ware's order AEI is also entitled to explore the "copyright factual issues" and, of course, AEI may explore issues regarding bias and interest as well.

Furthermore, to the extent you wish to achieve a single deposition for both the state and federal cases, there is now no limitation as to the timing sequence of the Brin and Page depositions, since the depositions can proceed in the federal case without regard to AEI's 2025.210 deposition of Google's PMK witness or of Orkut Buyukkokten.

Finally, your letter omits scheduling of a date for the deposition of Orkut Buyukkokten in the Federal action. Please provide a deposition date for Mr. Buyukkokten.

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Since we do not presently have full agreement on the depositions, the CMC scheduled on October 17, 2005 before Judge Ware should remain calendared until we reach full agreement on all issues.

Very truly yours,

G. Hopkins Guy, III

cc: Steve Manchester